

REMARKS

As of the date of the Office Action mailed December 5, 2006 ("Office Action"), Claims 1-21 were pending in this application. In this Amendment/Response, Claims 3 and 18-21 were withdrawn without prejudice in response to the Examiner's restriction requirement. Claims 1-17 remain for consideration.

Restriction/Election

In the Office Action mailed December 5, 2006 ("Office Action") the Examiner stated that restriction to one of the following inventions was required under 35 U.S.C. §121:

- I. Claims 1-17, drawn to a soil test apparatus, classified in class 422, subclass 102.
- II. Claims 18-21, drawn to a method for testing products in subterranean soil installations, classified in class 436, subclass 25.

Applicants elect, without traverse, to prosecute the claims in Group I (claims 1-17). With this election, Applicants withdraw Claims 18-21 reserving the right to pursue these claims in subsequent applications, or in this Application if applicable.

In the Office Action, the Examiner also stated that election was required under 35 U.S.C. §121 to a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held allowable. The Examiner identified the following species (A & B) as being distinct:

- A. Claim 3 - apparatus comprising walls that are configured for resilient deformation in response to pressure.
- B. Claim 4-6 - apparatus comprising rigid walls that are configured for outward movement against biasing means in response to pressure.



Applicants elect Species B and corresponding claims 1-2, 4-17 for prosecution on the merits. With this election, Applicants withdraw Claim 3 reserving the right to pursue this claim in subsequent applications, or in this Application if applicable.

Conclusion


Applicants have made a diligent effort to advance the prosecution of this application by complying with the requirements of the Office Action. Favorable consideration and an early allowance of the pending claims is respectfully requested. Applicants hereby authorize the Commissioner to charge any fees, other than the issue fee, that may be required by this paper to Deposit Account 07-0153.

If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

Respectfully submitted,
GARDERE WYNNE SEWELL LLP

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